

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
(BROOKLYN)

IN RE: EXACTECH POLYETHYLENE
ORTHOPEDIC PRODUCTS LIABILITY
LITIGATION

MDL No. 3044 (NGG) (MMH)

Case No.: 1:22-md-03044-NGG-MMH

District Judge Nicholas G. Garaufis
Magistrate Judge Marcia M. Henry

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THIS DOCUMENT RELATES TO:
ALL CASES AGAINST TPG
DEFENDANTS

DECLARATION OF DAVID C. HARMAN IN SUPPORT OF PLAINTIFFS'
RESPONSE IN OPPOSITION TO DEFENDANTS TPG INC.; OSTEON HOLDINGS,
INC.; OSTEON MERGER SUB, INC. AND OSTEON INTERMEDIATE HOLDINGS
II, INC.'S MOTION TO DISMISS

I, David C. Harman, declare and state as follows:

1. I am an attorney licensed to practice law in the State of Ohio. I am a shareholder with the law firm of Burg Simpson Eldredge Hersh & Jardine, P.C. Pursuant to Practice and Procedure Order No. 1, I am admitted *pro hac vice* by this Court. I have been appointed to serve as a member of the Plaintiffs' Steering Committee in the above captioned matter. (Doc. 269.)

2. I submit this declaration in support of Plaintiffs' Response in Opposition to Defendants TPG Inc., Osteon Holdings, Inc., Osteon Merger Sub, Inc., and Osteon Intermediate Holdings II, Inc.'s Motion to Dismiss.

3. Attached as Exhibit A is a list of cases that have been filed against the TPG Defendants that were not listed on the TPG Defendants' Appendix B.

4. Attached as Exhibit B is a true and accurate copy of the transcript for the November 16, 2022 Hearing.

5. Attached as Exhibit C is a true and accurate copy of Exhibit 10.1 to the October 22, 2017 8-K Report Exactech, Inc. filed with the SEC. This document is referenced in paragraph 95 of the Master Complaint.

6. Attached as Exhibit D are true and accurate copies of the listings on the Delaware Secretary of State's website for Osteon Holdings, Inc. and Osteon Intermediate Holdings II, Inc. Likewise, Exhibit D contains a true and accurate copy of Osteon Merger Sub, Inc.'s Articles of Incorporation which were filed with the Florida Secretary of State.

7. Attached as Exhibit E is a true and accurate copy of Exactech, Inc.'s Certificate of Liability Insurance. This document is referenced in paragraph 153 of the Master Complaint.

8. Attached as Exhibit F is a true and accurate copy of Plaintiff Mildred Drake's Short Form Complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 14, 2023

/s/ David C. Harman

David C. Harman